



## LOCAL GOVERNMENT COMMISSION

# Determination

of representation arrangements to apply for the  
election of the Whangarei District Council  
to be held on 13 October 2007

### Background

1. The Whangarei District Council (the Council) elected at the 2004 local election comprises the mayor and 13 councillors. Currently there are no community boards in Whangarei District. The 13 councillors were elected as follows:

Wards	Population*	No. of councillors per ward	Population per councillor	Deviation from the district average population per councillor	Percentage deviation from the district average population per councillor
Bream Bay	8,660	2	4,330	-1270	-22.7
Coastal	8,640	2	4,320	-1280	-22.9
Denby	20,400	3	6,800	+1200	+21.4
Okara	24,800	4	6,200	+600	+10.7
Hikurangi	5,580	1	5,580	-20	-0.4
Mangakahia-Maungatapere	4,700	1	4,700	-900	-16.1
<b>TOTALS</b>	<b>72,800</b>	<b>13</b>	<b>5,600</b>		

\*These figures are 2005 population estimates provided by the Government Statistician

2. The Council commenced its review of representation arrangements, under sections 19H and 19J of the Local Electoral Act 2001 (the Act), by setting up a representation review working group (the working group) consisting of four councillors. The working group met on a number of occasions from July 2005, to consider representation options for the district and report back to the Council.
3. The Council considered options put forward by the working group and subsequently agreed on 3 May 2006 to an initial proposal of the following representation arrangements:
  - (a) that there be five wards electing 13 councillors as follows:

Ward	Population*	No. of councillors per ward	Population per councillor	Percentage deviation from the district average population per councillor
Bream Bay	10,100	2	5,050	-9.8
Coastal	10,500	2	5,250	-6.3
Denby	23,000	4	5,750	+2.7
Okara	23,100	4	5,775	+3.1
Western	6,060	1	6,060	+8.2
<b>Totals</b>	<b>72,800</b>	<b>13</b>	<b>5,600</b>	

\*These figures are 2005 population estimates provided by the Government Statistician

- (b) not to introduce communities or community boards, on the basis that the five-ward structure as proposed provides fair and effective representation to citizens.
4. The Council received 48 submissions on its initial proposal. Most submissions did not support the initial proposal, and objected in particular to the removal of the Hikurangi Ward and the resulting heavier workload for rural councillors. One submission supported the Council's proposal.
5. Following consideration of the submissions, the Council resolved on 20 July 2006 to amend its initial proposal. The final proposal, publicly notified on 21 July 2006, was that there be six wards electing 13 councillors, as follows:

Ward	Population*	No. of councillors per ward	Population per councillor	Percentage deviation from the district average population per councillor
Bream Bay	10,150	2	5,075	-9.37
Denby	18,150	3	6,050	+8.03
Hikurangi-Coastal	10,450	2	5,225	-6.70
Mangakahia-Maungatapere	5,130	1	5,130	-8.39
Okara	23,300	4	5,825	+4.01
Whangarei Heads	5,630	1	5,630	+0.53
<b>Totals</b>	<b>72,800</b>	<b>13</b>	<b>5,600</b>	

\*These figures are 2005 population estimates provided by the Government Statistician

6. In notifying its final proposal, the Council advised it considered that:
- the appropriate number of councillors for the district was 13 and that this number best provides for fair and effective representation;
  - the Council is required to comply with the legislative provisions of the Act; and
  - the ward boundaries as described best provide for fair and effective representation.
7. Five objections and one appeal were lodged against the Council's final proposal. The issues raised by the objections and appeal were as follows:
- configuration of wards:
    - objection to six wards – preference for two wards (North and South). The Council's proposal tries to divide the rural-urban sectors;

- the city area should be one ward only;
- ward boundaries:
  - these do not cater to communities of interest. Objection to the inclusion of communities such as Pipiwai and Tutukaka in the proposed Hikurangi-Coastal Ward;
  - objection to the inclusion of areas in the south of the city, such as Toe Toe, Raumanga, the southern part of Austins Road and Smeatons Drive, in the Bream Bay Ward;
  - Whangarei City boundaries should be extending outwards, not inwards, to take account of urban growth;
  - the +/-10% rule is inappropriate (section 19V of the Act) and the exceptions provision (section 19V(3) in the Act should be used;
- number of councillors:
  - the Denby and Okara Wards should have four councillors each;
  - the number of councillors should be no more than 10. The high number of councillors makes for inefficient administration, inconsistent decision-making and an unclear policy direction; and
  - there should be two wards with five councillors each: a total of 10.

## Hearing

8. The Commission met with the Council, the five objectors and one appellant, and three submitters who accepted an invitation to appear in support of the Council's final proposal, at a hearing held at the Flames Conference Venue, Onerahi, Whangarei, on 14 December 2006. The Council was represented by Mayor Pamela Peters and Deputy Mayor Phillip Halse. The objectors and appellant appearing before the Commission were: Frank Newman, Wallace Redwood, Brian McLachlan, Merv Williams, J B O'Hagan and Franz Iseke, Submitters appearing in support of the Council's proposal were: Owen Mitchell, Merv Rusk and Yvonne Stewart.

## Matters raised in appeals, objections and at the hearing

9. Arguments presented in support of the Council's proposal, in summary, were that:
  - the final proposal is a good reflection of communities of interest across the district, and meets fair representation requirements. It also fairly reflects historical and geographical patterns;
  - the representation review process has been thorough, and participatory; the Council has listened to submissions (for example, over the Hikurangi community of interest). The final proposal does not split communities;
  - the final proposal provides effective representation for the rural community and adequately represents the urban/rural population differential;
  - communities of interest in Denby and Okara are sufficiently distinct to warrant continuing separate ward representation;
  - the proposed system will allow for effective and fair representation without the need for community boards. There is a strong network of ratepayer and community groups across the district;

- councillors, once elected, represent the whole district;
  - a Hikurangi/Coastal Ward is appropriate in that it does not split the town, and maintains the northern coast community of interest;
  - there is only limited public appeal for the option of reducing the number of councillors; and
  - the Council's final proposal was well accepted across the district. There have been no appeals from Whangarei Heads residents.
10. Arguments presented in support of appeals/objections, in summary, were that:
- the proposed ward configuration does not properly reflect existing natural communities of interest. Communities with very different interests and needs are grouped together (for example, Smeaton Drive and Toe Toe Road in the proposed Bream Bay Ward, or Pipiwai and Tutukaka in the proposed Hikurangi-Coastal Ward);
  - the status quo in terms of ward configuration best reflects the district's communities of interest;
  - the area south of the Ngunguru River (Whangarei Heads) is not sufficiently unique to justify the creation of its own ward;
  - there is no evidence that Whangarei Heads residents would be disadvantaged by not having a representative from their area;
  - the area north of the Ngunguru River is not sufficiently similar to the Hikurangi area to justify its inclusion in that ward. Land use between coastal north and Hikurangi does not have the similarities that the coastal areas have;
  - coastal north issues are the same as coastal south, for example, roading, and pressure on infrastructure;
  - the Council's proposal divides the rural and urban sectors;
  - splitting the city into two wards dislocates communities of interest;
  - there are no separate communities within the city area; there should be one city ward only;
  - the boundaries of urban wards should be extending outwards, not inwards, to take account of urban growth;
  - fair representation provisions (the +/-10% rule) are too restrictive and should be overridden. The exceptions provision (section 19V(3) in the Act should be used. Whangaruru (within the proposed Hikurangi/Coastal Ward) is isolated by distance and travel time; and
  - there should be no more than 10 councillors. The high number of councillors makes for inefficient administration, inconsistent decision-making and unclear policy direction.

## **Matters for determination**

11. The statutory provisions in respect of these objections and appeal are contained in sections 19R, 19H and 19J of the Act.

### **19R. Commission to determine appeals and objections**

- (1) *The Commission must—*
- (a) *Consider the resolutions, submissions, appeals, objections, and information forwarded to it under section 19Q; and*
  - (b) *Subject to sections 19T and 19V in the case of a territorial authority, and to sections 19U and 19V in the case of a regional council, determine, —*
    - (i) *In the case of a territorial authority that has made a resolution under section 19H, the matters specified in that section:*
    - (ii) *In the case of a regional council that has made a resolution under section 19I, the matters specified in that section:*
    - (iii) *In the case of a territorial authority that has made a resolution under section 19J, the matters specified in that section.*
- (2) *For the purposes of making a determination under subsection (1)(b), the Commission—*
- (a) *May make any enquiries that it considers appropriate; and*
  - (b) *May hold, but is not obliged to hold, meetings with the territorial authority or regional council or any persons who have lodged an appeal or objection and have indicated a desire to be heard by the Commission in relation to that appeal or objection.*
- (3) *The Commission must, before 11 April in the year of a triennial general election, complete the duties it is required to carry out under subsection (1).*

### **19H. Review of representation arrangements for elections of territorial authorities**

- (1) *A territorial authority must determine by resolution, and in accordance with this Part,—*
- (a) *Whether the members of the territorial authority (other than the mayor) are proposed to be elected—*
    - (i) *By the electors of the district as a whole; or*
    - (ii) *By the electors of 2 or more wards; or*
    - (iii) *In some cases by the electors of the district as a whole and in the other cases by the electors of each ward of the district; and*
  - (b) *In any case to which paragraph (a)(i) applies, the proposed number of members to be elected by the electors of the district as a whole; and*
  - (c) *In any case to which paragraph (a)(iii) applies,—*
    - (i) *The proposed number of members to be elected by the electors of the district as a whole; and*
    - (ii) *The proposed number of members to be elected by the wards of the district; and*
  - (d) *In any case to which paragraph (a)(ii) or paragraph (a)(iii) applies, —*
    - (i) *The proposed name and the proposed boundaries of each ward; and*

- (ii) *The number of members proposed to be elected by the electors of each ward.*
- (2) *The determination required by subsection (1) must be made by a territorial authority —*
  - (a) *On the first occasion, either in 2003 or in 2006; and*
  - (b) *Subsequently, at least once in every period of 6 years after the first determination.*
- (3) *This section must be read in conjunction with section 19ZH and Schedule 1A.*

**19J. Review of community boards**

- (1) *A territorial authority must, on every occasion on which it passes a resolution under section 19H, determine by that resolution, and in accordance with this Part, not only the matters referred to in that section but also whether, in light of the principle set out in section 4(1)(a) (which relates to fair and effective representation for individuals and communities) —*
  - (a) *There should be communities and community boards; and*
  - (b) *If so resolved, the nature of any community and the structure of any community board.*
- (2) *The resolution referred to in subsection (1) must, in particular, determine—*
  - (a) *Whether 1 or more communities should be constituted:*
  - (b) *Whether any community should be abolished or united with another community:*
  - (c) *Whether the boundaries of a community should be altered:*
  - (d) *Whether a community should be subdivided for electoral purposes or whether it should continue to be subdivided for electoral purposes, as the case may require:*
  - (e) *Whether the boundaries of any subdivision should be altered:*
  - (f) *The number of members of any community board:*
  - (g) *The number of members of a community board who should be elected and the number of members of a community board who should be appointed:*
  - (h) *Whether the members of a community board who are proposed to be elected are to be elected—*
    - (i) *By the electors of the community as a whole; or*
    - (ii) *By the electors of 2 or more subdivisions; or*
    - (iii) *If the community comprises 2 or more whole wards, by the electors of each ward:*
  - (i) *in any case to which paragraph (h)(ii) applies, -*
    - (i) *The proposed name and the proposed boundaries of each subdivision; and*
    - (ii) *The number of members proposed to be elected by the electors of each subdivision.*
- (3) *Nothing in this section limits the provisions of section 19F.*

## Consideration by the Commission

### *Effective and fair representation*

12. A review of representation arrangements under the Act is to ensure that:
  - the method adopted for the election of members (i.e. at large, wards, or a combination of both) will provide effective representation of communities of interest within the district (section 19T); and
  - in determining the number of members to be elected by each ward, electors of that ward will receive fair representation (section 19V).
13. For the purpose of achieving fair representation, section 19V(2) of the Act requires that the population of each ward divided by the number of members to be elected by that ward produces a figure no more than 10% greater or smaller than the population of the district divided by the total number of members. The Act does not, however, define either “effective representation” or “communities of interest”.
14. The steps in the process for achieving effective and fair representation are not statutorily prescribed. The Commission believes, however, that the following approach to determining representation arrangements will achieve a robust outcome that is in accordance with statutory criteria:
  - (a) identify the district’s communities of interest;
  - (b) determine the best means of providing effective representation for identified communities of interest; and
  - (c) determine fair representation for the electors of the district.

### *Whangarei District*

15. The Commission acknowledges the work undertaken by the Council, given this was the first review under the current legislation, to identify and confirm the district’s communities of interest. The Council was able to demonstrate that it had undertaken a thorough identification of communities according to the defining characteristics set out in the Commission’s “Guidelines to Assist Local Authorities in Undertaking Representation Reviews” (the Guidelines). At a “broad brush” level these communities were seen as the city/urban area, the Western rural area, Bream Bay, Whangarei Heads, and Northern (Hikurangi/Whangaruru). The city/urban area was later confirmed as having two separate groupings: Okara and Denby. The Council concluded that a ward structure remained the most effective representation model because of the diverse nature of the city area.
16. The Commission agrees in the first instance that a ward-based system remains the best method of ensuring effective representation, because of the diversity of the communities outlined above. The Commission believes that the size (270,000 hectares), and the varying terrain and land use of the district (which is 90% rural), are factors which would detract from councillors’ ability to represent all residents under an alternative method of representation. We further note there has been no challenge, in submissions or appeals, to a ward-based method of representation.

17. The second matter for the Commission to resolve is the number and boundaries of wards within the district. We note that the Council considered a number of options taking into account fair representation requirements. Following public feedback on its initial proposal, including that the Hikurangi area was a single community of interest which should not be split, it settled on six wards, including a new Whangarei Heads Ward, and a combined Hikurangi/Coastal Ward. This takes into account factors such as the physical environment, natural geographical boundaries, roading links, growth nodes (such as in Bream Bay) and, as described by the Mayor, the “patterning of people’s lives and identities” (for example, lifestylers resident in rural/coastal areas, who travel regularly to and from the city for employment, but have little interaction with the remainder of the district).
18. The Commission notes the objection that suggested having a north and a south ward only, and the assertion that the Council’s final proposal divides the rural and urban sectors. We found little evidence to support this proposal from a community of interest perspective. The Commission also notes that the Council has taken care to balance the interests of both sectors, by ensuring its proposal adequately represents the urban to rural population differential.
19. The Commission notes that, apart from the objection discussed above, there has been general agreement with the concept of six wards constructed along the lines of the Council proposal. There remained two main areas of contention:
  - the shape of the Hikurangi/Coastal and Whangarei Heads Wards: should there be one or two coastal wards? and
  - the Denby and Okara wards: should there be one or two city wards?
20. With regard to the first question, the Commission noted the objection which wanted to recast the Hikurangi and Coastal Wards (with no Whangarei Heads Ward). The Commission, however, agrees with the Council configuration. It is satisfied that the Whangarei Heads area fairly represents a community of interest, with a strong sense of identity and clearly defined geographical boundaries (the Ngunguru River to the north, and Whangarei harbour to the south). A lack of roading links means travel along the coast is limited and always has to be via the Whangarei urban area. We note that the proposed ward boundary runs along Ngunguru Road, but as noted by one objector, this does not split any communities of interest. The Commission is also satisfied that it is appropriate for the Hikurangi area to form part of a joint Hikurangi-Coastal Ward, given that no communities of interest will be split by the proposal, and the relationship Hikurangi has with the beach dwelling areas (and vice versa). Furthermore, the overall representation of the coastal area (Hikurangi-Coastal Ward, and Whangarei Heads) will be increased by the Council’s proposal, from two to three councillors. We note the points made by the objector regarding areas of growth along the coast, and related pressure on infrastructure. Additional representation will therefore be to the advantage of the broader coastal area.
21. Concerning the second question, of whether to have one or two city wards, the Commission acknowledges that at first glance, the city communities seem to have greater similarities than other wards and may not appear sufficiently distinct. The Mayor drew the Commission’s attention to the different land use or functionality of the wards: Okara is a mix of residential communities (such

as Maunu or Onerahi) and industrial/commercial, with harbour links, the airport, and the central business district. Denby on the other hand is a mix of residential communities (such as Kamo) and suburban shopping centres. Each also has a shared identity based on factors including community networks and differing historical backgrounds (for example, Onerahi was once a separate borough). The Commission is satisfied from the evidence presented to it that the communities of interest within the two wards are sufficiently distinctive to warrant continued separate representation.

22. In conclusion regarding the number of wards, the Commission agrees that six wards in the configuration proposed by the Council best reflects the district's communities of interest.
23. In terms of ward boundaries, the Commission notes the difficulties over the location of areas in the south of the city, in particular Toe Toe Road and Smeaton Drive, within an expanded Bream Bay Ward. The Commission considered the issues, but decides on balance that these areas should remain in Bream Bay, as proposed. Toe Toe Road, currently in Okara Ward, has several small clusters of residential development exiting on to the state highway directly opposite the Bream Bay Ward boundary. It was argued that the Toe Toe area fringes the industrial area of Okara Ward and that its residents would prefer to identify with the development of the industrial area. The Commission noted, however, the semi-rural nature of the area, which includes small lifestyle blocks, and considers that its growth and development are consistent with the predicted development of Bream Bay Ward. Bream Bay Ward is expected to become more of an urban ward due to predicted strong growth at Marsden Point and elsewhere (for example, the number of dwellings in the Marsden Point/Ruakaka area alone is expected to more than triple between 2006 and 2016). The ward will therefore change in terms of the rural/residential mix. The placement of the Toe Toe area is also necessary for compliance with fair representation requirements.
24. The Commission notes that Smeaton Drive is more suburban in development than Toe Toe Road, but that its retention in Okara Ward could not be achieved within the parameters of the +/-10% requirement. The Commission is satisfied that its placement in Bream Bay Ward is appropriate and consistent with mixed development taking place in the ward.
25. In relation to the total number of councillors, the Council's final proposal is to continue with 13. This conforms to the requirements of section 19(a) of the Act which sets upper and lower limits of between six and 30 members (including the mayor). Several objections sought a reduction in the number of councillors to 10, on the grounds that the present number promotes inefficient administration, inconsistent decision-making and an unclear policy direction. The Commission, however, believes that 13 councillors is necessary to ensure the effective representation of the diverse communities across the district, and that there is no strong reason to change. The Commission also notes the limited public interest in a reduction in councillors.
26. Moreover, as a reduction to 10 councillors would raise the district average population per councillor to 7,280, it would require significant reconfiguration of wards in order to meet fair representation requirements.
27. Under current arrangements, rural wards are significantly over-represented, and urban wards under-represented. The Council was aware of the

consequent need to change the representation equation, and considered a wide range of options. Its final proposal complies with fair representation requirements. The process was not without difficulty in relation to some ward boundaries, as discussed above. The Commission believes, however, that the Council has found the right balance between meeting fair representation requirements, and ensuring effective representation of communities of interest across the district.

28. One objector took the view that the fair representation requirements set out under section 19V(2) of the Act are too restrictive, and that the district should be able to remain with the status quo in terms of ward configuration, and be granted “an exemption” from the statutory requirement for fair representation of electors. The Act, however, only provides for this in respect of island or isolated communities. The objector argued that one coastal community within the proposed Hikurangi-Coastal Ward, Whangaruru North/Bland Bay, is isolated. While this particular community may be seen as physically remote, given its distance from the Whangarei urban area (1½ hours), its access to representation is not insufficient, nor is its population (approximately 600) large enough to justify enhanced representation for the northern community of interest.
29. The Commission therefore finds there are no grounds for an exception to be made to fair representation requirements. We also consider it appropriate, in response to this and another objection, to reiterate that it is the role of the Commission to make decisions in accordance with the Act, and that it cannot act otherwise.

#### *Communities and community boards*

30. The Commission is comfortable with the Council’s decision not to establish any community boards. There were no appeals or objections on the matter. We note the strong role played by ratepayer/community groups in the district, which generally have good attendance. They form a widespread network across the district and tend to be more active in outlying areas. Each receives a \$500 administration grant from the Council, for which they need to report annually. Individual ward councillors are formally appointed by the Council to liaise with ratepayer groups in their wards. The groups appear to work well in the absence of community boards.

#### **Determination**

31. Under section 19R of the Local Electoral Act 2001, the Commission determines that for the general election of the Whangarei District Council to be held on 13 October 2007, the following representation arrangements shall apply –
- (1) Whangarei District as delineated on SO Plan 385740 deposited with Land Information New Zealand, shall continue to be divided into six wards;
  - (2) Those six wards shall be:
    - a. the Mangakahia-Maungatapere Ward, comprising the area delineated on SO Plan 385749 deposited with Land Information New Zealand;

- b. the Hikurangi-Coastal Ward, comprising the area delineated on SO Plan 385752 deposited with Land Information New Zealand;
  - c. the Whangarei Heads Ward, comprising the area delineated on SO Plan 385753 deposited with Land Information New Zealand;
  - d. the Bream Bay Ward, comprising the area delineated on SO Plan 385755 deposited with Land Information New Zealand;
  - e. the Denby Ward, comprising the area delineated on SO Plan 385742 deposited with Land Information New Zealand;
  - f. the Okara Ward, comprising the area delineated on SO Plan 385744 deposited with Land Information New Zealand;
- (3) The Council shall comprise the mayor and 13 councillors, elected as follows -
- a. one councillor elected by the electors of the Mangakahia-Maungatapere Ward;
  - b. two councillors elected by the electors of the Hikurangi-Coastal Ward;
  - c. one councillor elected by the electors of the Whangarei Heads Ward;
  - d. two councillors elected by the electors of the Bream Bay Ward;
  - e. three councillors elected by the electors of the Denby Ward; and
  - f. four councillors elected by the electors of the Okara Ward.

32. As required by sections 19T(b) and 19W(c) of the Local Electoral Act 2001, the boundaries of the above wards coincide with the boundaries of current statistical meshblock areas determined by Statistics New Zealand and used for Parliamentary electoral purposes.

## **THE LOCAL GOVERNMENT COMMISSION**

Sue Piper	(Chair)
Gwen Bull	(Commissioner)
Wynne Raymond	(Commissioner)

27 March 2007